
Remarks

A. Rejection of Claim 4 Under 35 U.S.C. § 112

The Examiner rejected claim 4 because it depended from a canceled claim. We have amended claim 4 so that it depends from claim 1. In view of this amendment, we ask that the Examiner withdraw this rejection.

B. Rejection of Claims 1, 2, 4-16 and 33 Under 35 U.S.C. § 102(e)

The Examiner rejected claims 1, 2, 4-16, and 33 as anticipated by WO 96/17681 under 35 U.S.C. § 102(e). Only issued U.S. patents qualify as prior art under this statute. Because the cited reference is a PCT publication, and not an issued U.S. patent, we ask that the Examiner withdraw this rejection.

To the extent that the Examiner would issue this same anticipation rejection under 35 U.S.C. § 102(a), we respectfully disagree. The claims in our application recite values for Time to Reach 60 Percent of Free Swell Capacity and Time to Reach 60 Percent of Absorbency Under Load Capacity. The cited publication makes no mention of these values. If the Examiner is arguing that these recited properties are inherent in the combinations disclosed in the publication, the Examiner must show more:

Inherency . . . may not be established by probabilities or possibilities. . . .
The mere fact that a certain thing may result from a given set of
circumstances is not sufficient.¹

Accordingly, the recited publication does not anticipate our invention.

¹ *In re Oelrich*, 666 F.2d 578, 581, 212 U.S.P.Q. 323, 326 (C.C.P.A. 1981) (quoting *Hansgird v. Kemner*, 102 F.2d 212, 214, 40 U.S.P.Q. 665, 667 (C.C.P.A. 1939)).

C. Rejection of Claims 1, 2, 4-16 and 33 Under 35 U.S.C. § 102(e) and § 103

The Examiner rejected claims 1, 2, 4-16, and 33 as obvious over WO 96/17681 under 35 U.S.C. § 102(e) and § 103. Only issued U.S. patents qualify as prior art under this statute. Because the cited reference is a PCT publication, and not an issued U.S. patent, we ask that the Examiner withdraw this rejection.

To the extent that the Examiner would issue this same obviousness rejection under 35 U.S.C. § 102(a) and § 103, we respectfully disagree. WO 96/17681 discloses combinations that are designed to alleviate the salt-poisoning effect. (*See, e.g.*, page 6, line 13.) The publication does not teach or suggest combinations having the ability to relatively slowly absorb a liquid. Accordingly, the cited publication does not render obvious our claimed invention.

D. Conclusion

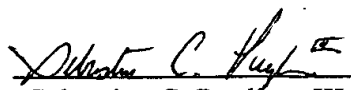
We would like to thank the Examiner for the careful attention paid to the present application. We request allowance of amended claims 1, 2, 4-16, and 33 in view of the above remarks.

Please charge any prosecution fees that are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875.

The undersigned may be reached at (920) 721-2747.

Respectfully submitted,

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